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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,077	09/22/2003	K.T. Venkateswara Rao	ACS 63118 (3624X)	1259

7590 03/14/2008  
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SUITE 300  
SAN FRANCISCO, CA 94111-3492

EXAMINER
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SNOW, BRUCE EDWARD

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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03/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/668,077	<b>Applicant(s)</b> RAO, K.T. VENKATESWARA	
	<b>Examiner</b> Bruce E. Snow	<b>Art Unit</b> 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,7,8 and 19-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9-16,26 and 28-32 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

Applicant's amendments and arguments filed 11/14/07 have been fully considered. Applicant's arguments overcame the rejection under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Regarding the rejection under 35 U.S.C. 102(e) as being anticipated by Herweck et al (2003/0153901), applicant argues the panel 12 is not tubular. Applicant's claim language, presently amended adding --portion--, is broad merely claiming, "*a prefabricated patterned tubular sleeve portion*". Giving the claim language its broadest reasonable interpretation, it might only have to be a tubular sleeve before it was fabricated. Finally, it only has to be a **portion of a prefabricated tubular sleeve!**

Applicant's amendment to claim 1 overcame the rejection under 35 U.S.C. 102(b) as being anticipated by Tartaglia et al (5,700,286) and the rejection under 35 U.S.C. 103(a) as being unpatentable over Williams (5,707,385) in view of Tartaglia et al (5,700,286).

### *Allowable Subject Matter*

Claim 6 is allowed.

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 9-16, 26, 28-32 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Herweck et al (2003/0153901).

1. (previously presented) A sleeve loaded 12 with at least one therapeutic drug for the eventual release thereof at a treatment site within a body lumen, comprising:

a prefabricated patterned tubular sleeve portion having independent drug-loaded elements 12, 12A, etc., the tubular sleeve being releasably attached to an outer surface of a stent structure in an unexpanded condition (note teaching of electrostatically coupled in a temporary manner and 14-15), at least a portion of the patterned tubular sleeve portion being decoupled from the outer surface of the stent when the stent is in an expanded condition so that the independent drug-loaded elements are held against the body lumen by at least a portion of the patterned tubular sleeve portion, wherein the sleeve is not stretched when the stent structure expands from the unexpanded condition to the expanded condition.

Currently, claim 1, only requires a *prefabricated patterned tubular sleeve portion* which is taught by Herweck et al in at least figure 3. Herweck et al teaches at least one removable panel and shows two, 12 and 12A, in figure 3. Additionally, it is inherent that the use of many panels surrounding the entire circumference of stent 70 is taught. Under 103, in light of Herweck et al teachings, it would have been obvious to one having ordinary skill in the art to use/try many panels surrounding the entire circumference of the stent 70 with predictable results. See paragraph 0100, *"those skilled in the art will*

*recognize that the selection of a desired length, shape, thickness, or a number of panels is based on a number of factors..”*

Regarding claims 31-32, under 103, Herweck et al teaches a medical device (stent) as shown in figure 3 which is a braided configuration and further teaches, *“that other implanted medical devices can have coupled thereto more than one removable polymeric drug delivery panels (paragraph 0084)”*. It would have been obvious to one having ordinary skill in the art to used/tried the panels on any known stent configuration (such as that taught by previously applied Tartaglia et al (5,700,286); see figure 8), including the claimed configuration, with predictable results.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E. Snow whose telephone number is (571) 272-4759. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Bruce E Snow/

Primary Examiner, Art Unit 3738